



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

Honorable L. A. Woods
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion Number 0-4855
Re: Payment of transportation
of scholastics under Rural
Aid Bill (Acts 1941, Ch.549).

We have received your letter of September 14, 1942, in which you ask certain questions with reference to the above captioned matter. We quote the following from your letter:

"We have a problem in transportation about which I should like to have your opinion.

"One of the cases under this type is the Shanklin District in Bell County, which was approved by the Department of Education and the Joint Legislative Advisory Committee last fall to transport their pupils whose grades were not taught in Shanklin to Belton and Salado. You will note that Section 2 of Article 5 of House Bill 284, Acts of the 47th Legislature, requires that where two receiving schools transport children out of the same sending district, it must have the approval of the Department and the Committee. It later developed that Shanklin was entering into a contract to transfer the entire district to Belton as provided for in Article 8 of House Bill 284. I should like your opinion on these two questions:

"1. Edward Wilson lived in Shanklin and attended school at Salado rather than going to Belton. Which is the home district of Edward Wilson--Shanklin, the district in which he actually resides, or Belton?

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"2. Since the duplicate service was approved by the Department and the Committee, would the transfer of the district by contract make it illegal to pay transportation on children living in Shanklin who continued to attend the Salado School as originally planned and approved? You will please bear in mind that no school was operated in the Shanklin District, and, therefore, the grades of none of the children were taught in the district in which they actually resided."

The approval of the transportation routes was made under the authority of that part of Section 2, Article V, of the Rural Aid Act (Acts 1941, 47th Leg., R. S., Ch. 549, H.B. 284, p. 880), which reads as follows:

"Sec.2. In no instances may aid be granted for pupils transported who attend a grade in another school which grade is taught in such pupil's home district. No transportation aid shall be granted for a pupil being transported out of his home school district if two (2) or more receiving schools are applying for transportation aid from such pupil's home district unless the bus routes through such district have been approved by the State Department of Education, and such approval confirmed by the Joint Legislative Advisory Committee. Aid shall not be granted under any provisions of this article unless the pupil so transported actually resides more than two and one-half (2 1/2) miles from the school attended and is transported in an approved bus over an approved route. * * * "

A short time after the routes were approved, the Shanklin district contracted to transfer its entire enrollment to the Belton Independent School District under the provisions of Article VIII of the Rural Aid Bill. You have informed us that this contract was for the school year 1941-42. Section 1 of Article VIII reads as follows:

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"Section 1. For the school year 1941-42, upon the agreement of the Board of Trustees of the districts concerned or on petition signed by a majority of the qualified voters of the district and subject to the approval of the County Superintendent, State Superintendent, and Joint Legislative Advisory Committee, the trustees of a district which may be unable to maintain a satisfactory school may transfer its entire scholastic enrollment, or any number of grades thereof, to a convenient school of higher rank, and in such event, all of the funds of the district, including the State Aid to which the district would otherwise be entitled under the provisions of this Act, or such proportionate part thereof as may be necessary shall be used in carrying out said agreement; provided that no aid shall be allowed for teachers that are not actually employed in the contracting schools."

You wish to know whether the Belton or the Shanklin district is the home district of Edward Wilson and whether the payment of transportation can legally be made for the children who attended the Salado School after the above-mentioned transfer contract was entered into.

Transportation aid may not be granted under the Rural Aid Bill for pupils who attend a grade in a school which grade is taught in such pupil's home district. Article V, Section 2, supra. The question necessarily resolves itself into a determination whether the transfer of the entire enrollment under Article VIII changes the home district of the pupils. We are of the opinion that for the purpose of paying transportation aid under the Rural Aid Bill such change is effected.

The transfer of the entire scholastic enrollment is authorized where the sending district is unable to maintain a satisfactory school. Manifestly, one of the factors which are considered in determining whether a school is satisfactory or

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not is the number of grades taught. It follows that one of the reasons for passing Article VIII, whereby the entire scholastic enrollment may be transferred, was to supply the grades which were needed and do away with the necessity of transferring students individually to other schools where their grades are taught. The receiving district receives the funds of the sending district, "including the State Aid to which the district would otherwise be entitled under the provisions of this Act, or such proportionate part thereof as may be necessary shall be used in carrying out said agreement". The bill provides for the transfer of the "entire" enrollment. We believe that it means what it says. For rural aid purposes, therefore, the receiving district is the home district of the students transferred under Article VIII.

We do not think that the identity of the sending district is destroyed by the transfer of its entire scholastic enrollment under Section 1 of Article VIII. In other words, the Shanklin Independent School District remains an independent school district, and its trustees continue to hold office and perform the duties incident thereto.

Article 2901, Revised Civil Statutes, reads as follows:

"Every child in this State of scholastic age shall be permitted to attend the public free schools of the district or independent district in which it resides at the time it applies for admission, notwithstanding that it may have been enumerated elsewhere, or may have attended school elsewhere part of the year".

It is our opinion that the scholastics residing in the confines of the Shanklin district are residents of such district for general purposes; but after the entire scholastic enrollment of such district has been transferred to the Belton Independent School District such scholastics are residents of the Belton district insofar as the payment of transportation aid is concerned. Your first question is answered in this manner.

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In view of what we have said, it is our opinion that where the entire scholastic enrollment has been transferred under Section 1 of Article VIII, transportation aid may not be granted for pupils who attend a grade in another school which grade is taught in the receiving district. Your second question is, therefore, answered in the affirmative.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *George W. Sparks*
George W. Sparks
Assistant

GWS/s

APPROVED SEP 24, 1942

Gerard C. Mann

ATTORNEY GENERAL OF TEXAS

